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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,336	03/01/2004	Stephen H. Sweet	19019.00011	2412

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EXAMINER

SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,336

Applicant(s)

SWEET, STEPHEN H.

Examiner

James N. Smalley

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-10 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on 20 December 2005. These drawings are accepted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, 8, 10, 15-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Betancourt US 5,398,374.

Betancourt '374 teaches a handle comprising a grip (30), lever portion (32), and trashcan door portion (34) fixed to a trashcan door (18). The handle appears to form an approximately 25-degree angle with the door. Col. 4, lines 13-22 teach fixing the handle to the door via screws, bolts, or any other conventional connector. The grip (30) is taught in col. 4, lines 9-11 to be formed integral with connecting arms (32). Furthermore, col. 4, lines 17-22 teach the handle connector arms (32) may be formed integral to the door (18). As such, the reference teaches the handle, door and connector arm may be all be integrally formed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 5, 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betancourt US 5,398,374.

Art Unit: 3727

Regarding claim 3, Betancourt '374 does not disclose the material from which the handle is formed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handle and trash door of Betancourt '374, forming both elements of the same material, or of any other suitable material, motivated by the benefit of reducing the number of materials required to form the device. Furthermore, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 5 and 17, Betancourt '374 does not disclose the handle extending downwardly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handle assembly of Betancourt '374, extending the handle downwardly. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 9, Betancourt '374 does not disclose the size of the door.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the trash door of Betancourt '374, forming it to 18 inches by 24 inches, or to any other suitable size, motivated by the benefit of conforming it to fit a like-sized trash container opening.

Furthermore, examiner notes it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handle and trash door of Betancourt '374.

6. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betancourt US 5,398,374 in view of Feely US 2003/0098305.

Betancourt '374 does not teach the handle being attached by a glue, although the reference discloses in col. 4, lines 13-22, a connection may be "any type of conventional connector."

Feely '305 discloses a trash door handle, and teaches in paragraph [0017] the handle may be fixed to the door by glue.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the handle of Betancourt '374, connecting the handle to the door by adhesive or apoxy, or

Art Unit: 3727

any other glue, as taught by Feeley '305, motivated by the benefit of fixedly securing the handle to the door.

Response to Arguments

7. Applicant's arguments filed 20 December 2005 have been fully considered but they are not persuasive. Applicant fails to argue the previous rejection, instead relying on amendments to define over the prior art. However, Betancourt '374 still anticipates, or is combined with prior art to obviate, the claimed invention.

8. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on M-Th 9-6:30, Alternate Fri 9-5:30.

Art Unit: 3727

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER